

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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Report of the Department of Telecommunications and)	
Energy relative to reducing the number of double)	
utility poles within the Commonwealth, pursuant to)	D.T.E. 03-87
Chapter 46 of the Acts of 2003, Section 110.)	
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COMMENTS OF VERIZON MASSACHUSETTS

In these comments, Verizon Massachusetts (“Verizon MA”) addresses issues relating to reducing the number of double utility poles in Massachusetts, as raised by the Department in its September 10, 2003, Notice and at the public hearing and technical hearing held on September 30, 2003, in this proceeding.¹

I. EXECUTIVE SUMMARY

The removal of double poles is not a simple task and, in fact, has become increasingly complex because of the growing number of attachees, including, *inter alia*, electric and telephone companies, cable providers, competitive telecommunications carriers, city or town departments (*e.g.*, fire department), alarm companies, and other private businesses.² Tr. B:11, 43-44. In February 2003, with the Department’s assistance, Verizon MA and various electric companies in Massachusetts implemented a

¹ For the purpose of citing from the transcripts for the September 30th hearings, Verizon MA refers to the public hearing transcript as Volume A, and the technical hearing transcript as Volume B.

² Indeed, Verizon MA notified approximately 250 attachees statewide about the September 30th hearings in this proceeding, in accordance with the Department’s directives. Tr. B:44.

new Pole Lifecycle Management (“PLM”) System relating to double poles throughout the state.³ Tr. B:48-50.

The PLM system is an electronic monitoring system designed to provide pole owners and attachees with live database access to current information regarding the status of double poles in Massachusetts. Tr. B:24-25. This will facilitate the transfer and removal of wires, equipment and other facilities from the existing pole to the new pole by posting information regarding the progress of such activity, along with the necessary hand-offs to pole attachees. The PLM system will provide utilities with the tools to better manage the double pole removal process throughout Massachusetts by providing a reliable and efficient means of identifying double poles and tracking their status.

For those reasons, Verizon MA recommends that the Department report to the legislature that the issue of reducing the number of double poles requires further study. Likewise, the Department should recommend that it would be premature to consider whether or under what terms and conditions penalties should apply until such review is completed.

Contrary to some parties’ claims, it would be unfair, unreasonable, and indeed punitive to impose fines on utilities for double poles in place more than 90 days statewide. Tr. A:26-27; Tr. B:2-9. Not all towns represented at the September 30th hearings agree that a penalty system is reasonable or appropriate or easily administered. Tr. B:63-65. Moreover, to allow each of the 351 Massachusetts cities and towns to adopt its own system of fines to address the double pole removal issue is fragmented, confusing

³ As discussed later in these comments, Verizon MA, NSTAR and Comcast are also conducting a trial in certain communities aimed at improving the process and procedures for addressing double pole removals.

and unmanageable. The double pole issue is a *statewide* matter and, therefore, should be addressed by the Department – not by individual municipalities.

II. BACKGROUND

The Department opened this investigation to provide guidance in preparing a report for the legislature regarding the reduction of double poles in Massachusetts, as set forth in Section 110 of Chapter 46 of the Acts of 2003, enacted July 31, 2003. Chapter 164, Section 34B of Massachusetts General Laws requires a utility to remove an existing pole within 90 days from the date of installing a new pole, with limited exception.⁴ In that report, the Department is directed to

...include the department's recommendations and proposed legislation for enforcement of this section [34B] and waivers from this section. The department shall also provide an analysis of whether local enforcement by ordinance or by-law is preferable to statewide enforcement of this section.

The Department is required to issue that report by November 28, 2003.

Generally, a utility places a new pole at the site of an existing pole for one or more of the following reasons: (1) the existing pole is no longer structurally sound and must be replaced or supported by another, newer pole; (2) the size of the existing pole cannot accommodate the demand for space on that pole and must be replaced by a newer, larger pole; (3) the demand for upgrades to the electric distribution system in Massachusetts cannot be met by the existing pole and thus requires installation of a new pole; and (4) a municipality's construction project, roadwork, or other such activity requires the installation of a second, newer pole at the site. Tr. B:11-12, 44-45. Once the

⁴ Section 34B further provides that, in the case of an approved commercial or industrial construction project, which is expected to take longer than one year to complete, the utility is required to remove the existing pole within six months from the date of installation of the new pole.

second pole is installed, the coordination of the work effort involved to transfer facilities and remove the existing double pole begins.

As demonstrated at the September 30th technical hearing in this proceeding, a utility's removal of the existing pole is a complex and labor intensive process that involves the coordination and participation of all parties with wires, equipment or other facilities attached to that pole. Tr. B:45-46. Before any pole can safely be removed, each attachee must transfer its wires, equipment and other facilities from the old to the new pole, in a manner designated by the order in which those facilities are attached. Tr. B:14, 45-46. In an effort to facilitate this *collaborative* process and improve the tracking of such activities, Verizon MA and the electric industry – with the assistance of the Department - have recently implemented the PLM system, a statewide, electronic database system that identifies and monitors the status of double poles. Tr. B:48-49.

III. DISCUSSION

A. The Complexity of the Utility's Pole Removal Process Is A Function of the Growing Demand for Access to Utility Poles in Massachusetts.

Verizon MA is responsible for setting and removing all poles in 141 of the 351 cities and towns in Massachusetts – or approximately 40 percent of the state. Tr. B:47. Verizon MA is also jointly responsible with the electric companies for setting and removing poles in 66 additional municipalities. Tr. B:47. As of September 1, 2003, the PLM system identified approximately 25,000 double poles in Massachusetts. Tr. B:47. Of that total, approximately 8300 - or about 33 percent - are located in Verizon MA's sole set areas. In the joint or shared set area, there are about 4,700 double poles - or approximately 19 percent of the total. Tr. B:48.

The complexity of a utility's pole removal process is a function of the growing demand for access to utility poles in Massachusetts. As Verizon MA explained at the September 30th technical hearing, in the past, a typical utility pole had no more than three attachees, *i.e.*, the electric, cable and telephone companies. Tr. B:43-44. Likewise, in the past, a utility pole was typically replaced due to damage or deterioration, in the course of normal maintenance, and/or as a result of municipal roadwork, *e.g.*, road widening causing relocation of an existing pole. Tr. B:12, 44. However, in recent years, this has changed dramatically.

The ever-increasing competitive nature of the telecommunications industry and the need to upgrade the electric infrastructure in Massachusetts has increased pole replacements and upgrades over the last few years. For example, new entrants into the telecommunications industry have caused an increase in the number of companies that want to attach to utility poles. It may be a second cable company, other carriers placing additional fiber cables, private companies stringing their own wire for their private networks, municipal fire or other departments, or Verizon MA's own expansion. Tr. B:44. Because the poles have become more crowded, larger poles must be set to accommodate the growing demand, wherever possible.

As a result of the increased demand for new replacement poles, there is additional pressure to remove existing poles. On average, Verizon work crews require twice as much time to place a pole as to remove one. Tr. B:46. The *same* Verizon work crews that are setting new poles are required to remove all the double poles caused by the increase in demand. This creates a Catch 22 type of situation because the transfer of facilities and removal of double poles are very time-consuming and, therefore, can divert

resources *away from* installing poles to meet customers' and competitors' demands,⁵ as well as electric infrastructure upgrades. Tr. B:46.

Regardless of whether a new pole is constructed to accommodate new attachees, electrical upgrades, or municipal roadwork, the fact is that the old pole cannot be removed until each attachee transfers its wires, equipment, and other facilities from the existing pole to the new pole.⁶ Each attachee is responsible for transferring its facilities in a sequential manner based on the order in which the facilities are attached to the pole.⁷ Tr. B:14, 45-46. Because of the sheer number of attachees on poles in today's environment, this has become a more complicated undertaking – and must be accomplished in an organized and coordinated fashion to minimize disruption and/or interruption of service. Tr. B:50. To better manage this process, Verizon MA and the electric industry are committed to the development of the PLM system as a means of

⁵ Since February 2003, Verizon MA has set about 1,700 poles and removed just under 1,100 in the 141 Massachusetts municipalities where it is solely responsible. Tr. B:48. This equates to approximately 40 percent of all poles set and removed across the state during that time period. This is in addition to the work performed by Verizon MA to transfer its cables to the new poles so that they can be removed.

⁶ For instance, approximately 6,800 double poles – or 80 percent of the double poles in Verizon MA's set areas – are awaiting facility transfer work by companies other than Verizon MA, *e.g.*, cable companies, electric companies, alarm companies, municipalities, etc. Thus, only 1,500 double poles – or 20 percent - of the double poles in Verizon MA's set areas are awaiting removal by Verizon MA. Tr. B:47. Similarly, in Verizon MA's joint or shared set areas, about 800 poles are awaiting Verizon MA's removal, and about 1,650 are awaiting transfers from Verizon MA. In summary, although there are just over 25,000 double poles in Massachusetts, about 10 percent, or about 2,600 poles are awaiting removal by Verizon MA. Tr. B:47-48.

⁷ As the Massachusetts Electric representative explained at the September 30th hearing, it would be very difficult for a utility to transfer an attachee's facilities because there are "different combinations of telephone companies, cable companies, telecommunications service providers, and fire departments, who have been building their system and their equipment to different specifications, ... use different equipment, different size wires, different attachment hardware..." Tr. B:31-32. Accordingly, because the equipment transferred is often complex, it is reasonable and appropriate to hold the attachee responsible for completing those facility transfers.

inventorying double poles and tracking the transfer of equipment and facilities on the poles.

B. The Implementation of a Statewide PLM System Enables the Utilities to Better Manage the Double Pole Removal Process in Massachusetts.

The PLM system, which was recently implemented with the Department's assistance, is an Internet-based, monitoring system that tracks activity on double poles. This includes date of installation and information regarding attachments, such as the type of equipment and facilities attached to the pole and the order in which the attachments are on the pole. Tr. B:23. The PLM system is provided jointly to Verizon MA and four electric utilities – NSTAR, Massachusetts Electric Company, Western Massachusetts Electric Company, and Fitchburg Gas and Electric Company – by Inquest Technologies. Tr. B:24. The system can also be accessed by pole attachments, including cable companies, other telecommunications providers, and municipal fire departments, thereby allowing them - as system users - to update information regarding their pole attachments. Tr. B:24.

Since the PLM system was deployed on a live basis in February 2003, the utilities have worked cooperatively and collaboratively with Inquest Technologies to input data and support the development of processes and procedures. As Mr. Lubie from Inquest Technologies testified:

As everybody can expect, getting five large companies across approximately 400 municipalities to create the rollout of an enterprise-level application is not insignificant. In fact, it's a very significant effort, that I believe each one of the companies has put a tremendous amount of effort into making [it] successful. As with enterprise systems, as the system goes live, companies and users become aware of areas that they would like to streamline, areas where they internally have to make process changes.

Tr. B:56-57. Mr. Lubie further stated that “[w]hile the system is a great start in capturing the information,” all the companies are “committed to resolving the issues and using the technology as a base of information to capture and identify what needs to be resolved.”

Tr. B:57.

For example, the utilities continue to evaluate reports, update system training, and verify the accuracy of information entered into the PLM database by utilities and other system users, *e.g.*, pole attachees. Tr. B:22, 35. This is critical to ensure that the PLM system effectively improves communication of accurate and timely information to attachees regarding transfer of their facilities. Thus, a considerable amount of work has already been accomplished to establish the PLM system as an effective and useful tool for all utilities in promoting greater efficiency in the double pole removal process. Tr. B:48.

In an effort to take that tool one step further, Verizon, NSTAR and Comcast recently entered into a trial program in the Town of Lexington,⁸ and subsequently plan to expand that trial to other communities. Tr. B:49. That trial utilizes the PLM system as a new tool in a real life situation – providing the opportunity to refine existing processes and procedures, as well as develop new practices for transferring and removing double poles in an efficient manner. Tr. B:61. The results of this trial will provide invaluable

⁸ It should be noted that at the September 30th public hearing, the Town of Lexington, represented by its selectman and members of the Lexington Electric Utility Ad-Hoc Committee, mischaracterized the contacts between Verizon MA and the Town regarding the removal of double poles. Contrary to their claims, Verizon MA, in January 2003, committed to reduce the number of double poles by approximately 20 per month, and to provide periodic updates of the Company’s progress. Tr. A:6-7. According to data from the PLM system, from February 2003 through September 2003, Verizon MA has installed 105 double poles and removed 150 double poles in the Town of Lexington. Thus, Verizon MA has essentially met its objective by completing an average of 19 double pole removals per month. Moreover, Verizon MA regularly informed town officials of its progress at monthly meetings, in written reports, and via e-mails. In addition, some town officials were trained to access the PLM system so that they can extract their own updates.

information that can be used by the utilities and attachees across the state to work toward minimizing the number of double poles.

In short, the introduction of the PLM system – and the development of improved processes and procedures from the ongoing use of that system - will enable the utilities to address the issue of double pole removal in an efficient and coordinated manner and establish a roadmap for future improvements. Tr. B:49. Accordingly, the Department should allow the utilities sufficient time to gain actual experience with the PLM system, rather than take punitive measures, as some municipalities suggest.

C. Contrary to Some Parties' Claims, There is No Basis for Imposing Fines or Penalties on Utilities for the Removal of Double Utility Poles.

As demonstrated above, the installation of new poles, the transfer work that must occur and the removal of old poles is a complex issue that cannot be addressed with simple solutions. Tr. B:50. Since the implementation of the PLM system, the utilities have made steady progress in improving the pole tracking process. Use of the PLM system will ultimately enable the utilities to better monitor – and, therefore, more efficiently reduce - the number of double poles in Massachusetts. However, because of the complexity of the task and the numerous parties involved, more work is required to establish the PLM system as a viable, effective tool to manage the pole removal process.

During that transition period, the Department should decline to recommend to the legislature the imposition of any fines or penalties for the removal of double poles over 90 days. Moreover, to apply penalties solely on the pole owner – without consideration to the fact that the attachees bear full responsibility for removing their own equipment to effectuate pole removal - would be an unfair, unreasonable, and ineffective approach. Tr. B:51.

Only one community – the Town of Lexington - presented a penalty proposal for removing double poles at the September 30th technical hearing. Tr. B:2-9. The Department should reject that proposal on the merits.

First, representatives from the Town suggested that the municipality consider invoking its authority under Chapter 86, Section 7 of the Massachusetts General Laws, which allows for the removal of matter from public ways and provides that “[t]he aldermen or selectmen may cause the removal from public ways and places of unused poles, wires, structures or other appliances, at the expense of the owners thereof.” Tr. A:27, B:2-3. Under that proposal, the Town would retain an outside contractor to remove the double poles - at the utilities’ expense, *i.e.*, by having the Town withhold payments on utility bills. That recommendation is impracticable, unreasonable and unlawful.

The representative from the City of Somerville articulated some “very valid reasons” for rejecting Lexington’s proposal. Tr. B:64. Because of the highly complex and technical nature of the equipment, facilities, etc. to be transferred,

... you want somebody competent, technical, that knows how to work on that particular system. There’s a lot certification, a lot of equipment issues, management issues. So, you want the company to work on it that’s responsible for it.

Tr. B:64. Moreover, there is the potential risk of inadvertently cutting wires, downing cables, or damaging other equipment and, therefore, disrupting customers’ telephone or electric service, with possible serious network and/or public safety consequences. Tr. B:64-65. As recognized by the Somerville official,⁹ because this raises liability issues for

⁹ The representative from Massachusetts Electric Company echoed Somerville’s concerns, by describing the difficulties with having a single contractor coordinate that work effort for all

the municipalities, it is not a “business we want to get into, to be out there managing, transferring others’ cables.” Tr. B:64-65.

Moreover, under Massachusetts law, the Department does not have the authority to provide a discretionary, self-help remedy for municipalities regarding the removal of double poles. Under its ratemaking authority, the Department has approved utilities’ rates and charges pursuant to effective tariffs. To allow municipalities to circumvent those tariffed charges by unilaterally applying a “credit” against utility bills to offset pole removal expenses is unjustifiable. Tr. B:2-3.

Second, representatives from the Town of Lexington proposed that a sliding scale of penalties be established based on the number of days over 90 that a double pole has not been removed. Tr. B:5-6. Some municipalities are, however, opposed to that approach.

For instance, the City of Somerville official stated that

... a fine system is not our answer. Taking on a fine system means basically I have to hire somebody to manage the fine system. So, I have to have accurate information if we’re going to be sending out a fine, and I’ve got to hire administrative staff to send out the bills, and I’ve got to have somebody chase who doesn’t pay. That’s not going to help us in Somerville. I don’t think that’s the direction we should be going.”

Tr. B:63. Without a consensus among all cities and towns to apply penalties, the Department should not recommend such an approach. Moreover, allowing cities and towns to adopt their own set of rules and fees regarding double pole removal would be

attachees, as well as pointing out the labor contract issues that would preclude such an arrangement. Tr. B:18-19.

confusing, fragmented and unmanageable. The double pole issue is a statewide matter, and should be addressed by the Department on a statewide basis.

Accordingly, the administrative difficulties and costs associated with implementing and enforcing a penalty system, as proposed by the Town of Lexington, far outweigh the potential benefits.¹⁰ The utilities' time, effort and resources are better spent on refining the PLM system so that it can be used to assist all utilities, system users, municipalities, and the Department in identifying and resolving the double pole removal issue. Therefore, the Department should reject Lexington's penalty proposal.

IV. CONCLUSION

In summary, the complex issues associated with double poles cannot be solved simply and require further analysis by the Department. That analysis can take place after the trial of the new PLM system and lead to a set of rules and regulations that will allow the Department to encourage utilities to meet its concerns regarding the removal of double poles in Massachusetts.

As described above, the process of removing double poles is complicated because of the technical nature of the equipment to be transferred from the existing pole to the new pole and the need for attachees to coordinate properly the transfer of their facilities.

¹⁰ In addition, the Town of Lexington proposed that the utilities bear full responsibility for any fines imposed by the municipality. Tr. B:3. This is more complicated than it appears.

Approximately 90 percent of the poles in Massachusetts are jointly owned. Tr. B:11. The Town of Lexington does not explain how it will apportion those fines between joint pole owners. Nor does Lexington address how the joint pole owners will then collect those fines from attachees who are responsible for the delay in removing the double poles. Tr. B:3-4. Indeed, this could result in utilities charging back those fines imposed by the municipality to the town fire department (as an attachee to the double pole).

Finally, the Town of Lexington recommends that the Department assume responsibility for resolving any disputes relating to such fines. This penalty process and its enforcement are not only cumbersome and costly to implement and administer, but are totally unnecessary in light of the introduction of the PLM system.

Verizon MA and the electric companies must be allowed adequate time to adapt and refine the PLM system to provide a useful tool in tracking accurate information that will enable the utilities to reduce systematically, effectively, and efficiently the number of double poles.

Finally, the lack of consensus among all 351 Massachusetts cities and towns in adopting a penalty system for removing double poles within 90 days speaks volumes regarding the difficulty with administering such a program and the costs involved. The double pole issue is a *statewide* matter, and should not be addressed at the municipal level.

Accordingly, the Department should reject the Town of Lexington's proposal for imposing fines on the utilities, and instead recommend to the legislature that further review is required to evaluate the PLM system and develop appropriate reporting procedures to ensure that transfers are managed properly to facilitate removal of double poles.

Respectfully submitted,

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